

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEO P. MARTINEZ,  
Plaintiff,

No. C 09-3544 WHA (PR)

**ORDER OF DISMISSAL**

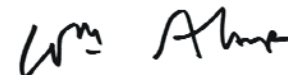
v.

CDC STATE OF CALIFORNIA,  
Defendant.

This is a civil rights case brought pro se by a state prisoner. The only defendant named is the California Department of Corrections, a state agency. The California Department of Corrections and Rehabilitation, as it is now known, cannot be sued in federal court. *See Brown v. Cal. Dep't of Corrs.*, 554 F.3d 747, 752 (9th Cir. 2009) (California Department of Corrections and California Board of Prison Terms entitled to 11th Amendment immunity). In addition, plaintiff's claim is for a correctional officer's negligent loss of some of his personal property. Neither the negligent nor intentional deprivation of property states a due process claim under Section 1983 if the deprivation was random and unauthorized, as seems to be the case here. *See Parratt v. Taylor*, 451 U.S. 527, 535-44 (1981) (state employee negligently lost prisoner's hobby kit), *overruled in part on other grounds, Daniels v. Williams*, 474 U.S. 327, 330-31 (1986); *Hudson v. Palmer*, 468 U.S. 517, 533 (1984) (intentional destruction of inmate's property). For these reasons, the complaint is **DISMISSED** with prejudice. The clerk shall close the file.

**IT IS SO ORDERED.**

Dated: August 31, 2009.



WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

**United States District Court**  
For the Northern District of California

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